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Hawk P.C. Kautz**

March 21, 2012

Terrance L. Smith, Ph.D.*†
Retired

Certified Mail Return Receipt Requested

MAR 26 2012

Dennis F. Smith
(1935-1997)

Deena Sheppard
Enforcement Specialist
United States Environmental Protection Agency –
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US EPA RECORDS CENTER REGION 5



Re: Request for Information Pursuant to Section 104(e) CERCLA
Regarding the Gary Development Landfill Site, in the City of Gary,
Lake County, Indiana Directed to City of East Chicago, Indiana
CERCLIS ID No. IND077005916
Date of Initial Request: December 6, 2011

Dear Ms. Sheppard:

By letter dated December 6, 2011, from Sharon Jaffess, Chief, Enforcement and Compliance Assurance Branch, you requested documents and other information from the City of East Chicago concerning its alleged transportation, disposition or arrangement for the disposal of hazardous material at the Gary Development Landfill in Gary, Indiana. The undersigned is legal counsel to the Sanitary District of the City of East Chicago which has responsibility for the collection and disposal of the City's municipal solid waste and the treatment of its waste water. Your request was forwarded by the Office of the City Corporation Counsel to me in early January, 2012 with the request that I look into whatever records were still in the possession of the Sanitary District, as the most likely source of anything deposited by the City of East Chicago in the landfill in question, in order to provide you with a response. At the outset, permit me to inform you of the following facts:

1. Per the site background information provided in Enclosure 1 to Ms. Jaffess' letter, you have informed us that the Gary Development Landfill was open for the period from on or about February 20, 1975 through the cessation of operations at the landfill in 1989. This means that the last time anything could be sent to the landfill from East Chicago was more than 22 years ago. It also should be noted that the City of East Chicago has stored records, during the last 22 years, in several different locations. Records from some of these locations have already been destroyed, previously, pursuant to said record retention policies. However, searching these areas for any document that might reference the Gary Development Landfill is truly a gargantuan task.



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2. It is the policy of the City of East Chicago and the East Chicago Sanitary District to cooperate fully with you in attempting to uncover any records which still may be available. However, this process is ongoing and is not likely to be concluded any time soon. A preliminary check of all of the storage sites and all of the boxes contained therein to determine whether their contents are likely to contain the records you request is underway at this time. I have been informed that that review will be finished on or before April 20, 2012. It is our plan, beginning on that date, to conduct a thorough and complete search of any and all boxes which relate to the East Chicago Sanitary Solid Waste Division, any hauling and disposal records for the Waste Water Division, and any invoicing or billing records for those two divisions. These are the only entities of the City which have the authority to dispose of waste and, therefore, would be the most likely sources for the documents you seek.

3. The City of East Chicago and the East Chicago Sanitary District claim no confidentiality as to any records in our possession which may be responsive to your request. Accordingly, we will quickly produce copies of any and all documents which reference transportation of anything to the Gary Development Landfill, any arrangement with that landfill, or any correspondence which we may uncover with the operators thereof.

For the reasons stated above, therefore, we are unable at this time to provide you with an authoritative response to your request. However, we will keep you informed and, in thirty (30) days, advise you of a date certain by which we believe our search will be complete and we can authoritatively respond to your request.

The foregoing representations are made after my conference with Peter Baranyai, Director of the East Chicago Sanitary District, with Kim Anderson, the Controller of the City of East Chicago, its Chief Financial Officer whose department has responsibility for the retention and destruction of records, and with Monsi Corsbie, Director of the Solid Waste Division whose personnel are assisting in the search for the records.

Finally, we respectfully request some assistance from your agency. The second page of Ms. Jaffess' letter states that "EPA understands that East Chicago transported, disposed or arranged for the disposal of hazardous material at the Gary Development Landfill." We would appreciate having some information from you as to what documents or other evidence you have of this fact that might aid us in locating other related materials that may be of use to you. Any information that you can provide on a formal or informal basis which includes such facts as the names of the entities, other than the City, who may have actually transported the material in question, the dates of that transportation or disposal, and the specified source by City department, would be of great

Appendix A

10-30-96

RECORD RETENTION REQUIREMENTS UNDER INDIANA AND FEDERAL LAW

Period of Retention

Records to be Retained

| | |
|---|--|
| <i>1 year</i> | Personnel records relating to (1) job applications, resumes or other replies to job advertisements, including records pertaining to failure to hire; (2) promotion, demotion, transfer, selection for training, layoff, recall, or discharge; (3) job orders submitted to employment agency or union; (4) test papers in connection with employer-administered aptitude or other test; (5) physical examination results; (6) job advertisements or notices to employees regarding openings, promotions, training programs, or opportunities for overtime work (ADEA, ADA, Title VII, Rehabilitation Act) |
| <i>2 years</i> | Basic employment and earnings records, wage rate tables, work time schedules, orders, shipping and billing records, job evaluations, merit or seniority systems, or other matters that describe or explain the basis for payment of any wage differentials to employees of the opposite sex in the same establishment, records of deductions from or additions to pay (FLSA, Walsh-Healey, Davis-Bacon) Apprenticeship application forms or lists shall be retained for two years from date of application. If an annual report is required by the EEOC, two years or a period of successful applicant's apprenticeship, whichever is longer, is required. (Title VII, Executive Order) |
| <i>3 years</i> | Payroll records containing each employee's name, address, date of birth, occupation, rate of pay, and compensation earned per week (ADEA) Basic payroll records, relevant union or individual employment contracts, applicable certificates and notices of Wage-Hour Administrator, and sales and purchase records. Also, injury frequency rates, gender, and identifying contract number for Walsh-Healey (FLSA, Walsh-Healey, Davis-Bacon, ADEA) Records relating to discrimination charges (Rehabilitation Act) Employment eligibility verification (Form I-9) (IRCA) (Statute requires I-9s be retained until the later of (1) Three years from employee's date of hire or (2) One year after the employee's termination) Bloodborne pathogen safety training (OSHA) |
| <i>5 years</i> | Relevant records from which documents filed may be verified evidencing payments to union representatives and employees, payments interfering with employee rights, and arrangements with labor consultants (Landrum-Griffin Act) Form 101; Form 200, Log and Summary of Occupational Injuries and Illnesses (OSHA) Payroll and certain personnel records (Rules of the Indiana Department of Employment and Training Services) |
| <i>6 years</i> | ERISA report filings |
| <i>30 years</i> | Medical records for employees with occupational exposure to bloodborne pathogens (OSHA) |
| <i>Until final disposition of charge or action</i> | Personnel records relevant to charge of discrimination against employer (Title VII, Executive Order) |
| <i>Period plan or system is in effect plus 1 year</i> | Employee benefit plans, written seniority or merit rating systems (ADEA) |



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